

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**TYRONE HENDERSON,**  
*on behalf of himself and others*  
*similarly situated,*

**Plaintiff,**

**v.**

**Civil Action No: 3:12cv97 (REP)**

**CORELOGIC, INC.,**

**and**

**CORELOGIC NATIONAL BACKGROUND DATA, LLC,**  
**f/k/a National Background Data, LLC,**

**Defendants.**

**PLAINTIFFS' FED. R. CIV. P. 26(a)(1) DISCLOSURES**

COMES NOW the Plaintiff, by counsel, and pursuant to Fed. R. Civ. P. 26(a)(1), and make the following disclosures to Defendant. These initial disclosures are based on information reasonably available to Plaintiff at this time. Plaintiffs reserve the right to supplement these initial disclosures (either through express supplements to these disclosures or through responses to formal discovery) when additional information becomes available.

In making these initial disclosures, Plaintiff does not waive the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay or any other proper ground to the use of any such information, for any purpose, in whole or in part, and this action or any other action. Plaintiffs also do not waive the right to object to any request for production of any document, electronically stored information, or tangible thing on the basis of any privilege, the work product doctrine, evidentiary exclusion, relevancy, undue burden or any other proper

ground.

**I. Individuals likely to have discoverable information.**

- a. ***The Plaintiff, Tyrone Henderson***, c/o Consumer Litigation Associates, P.C., 763 J. Clyde Morris Boulevard, Suite 1-A, Newport News, Virginia 23601. (All facts)
- b. ***Corelogic, Inc.*** (All facts)
- c. ***Corelogic National Background Data, f/k/a National Background Data, LLC.*** (All facts).
- d. ***Clerk of Courts – Westmoreland County, 2 North Main Street, Suite 203, Greensburg, PA 15601*** (All facts regarding any and all criminal complaints and Orders of Court/Sentences of record regarding Tryone D. Henderson)
- e. ***Anna Wynn, Compliance Specialist, National Background Data by Core Logic*** (All facts regarding the background screening conducted regarding Tyrone Henderson)
- f. ***Robyn Small, Consumer Relations, Corelogic***, (All facts regarding Tyrone Henderson)
- g. ***Vanessa Trent-Valentine, Operations Department – Corelogic Safe Rent*** (7300 Westmore Road, Suite 3, Rockville, MD 20850) (All facts regarding response to subpoena and Tyrone Henderson)
- h. ***C. Coates (Corelogic Employee)*** (All facts regarding Tyrone Henderson's dispute)
- i. ***Ashar Siddiqui*** (All facts regarding screening request for Tyrone Henderson and class members)
- j. ***Tracy Hamill*** (All facts regarding screening request for Tyrone Henderson and class members)
- k. ***Lyn Watts*** (All facts regarding screening request for Tyrone Henderson and class members)
- l. ***Kisha Ragland*** (All facts regarding screening request for Tyrone Henderson and class members)
- m. ***Theresa Rivers*** (All facts regarding screening request for Tyrone Henderson and class members)

- n. ***Employees of Verifications, Inc.*** (All facts regarding Tyrone Henderson)
- o. ***Putative class members.*** (All facts)
- p. ***The spouse, partner or significant other and all family members, friends and associates of each plaintiff and each putative class member.*** Counsel has not identified all such persons, and as to those who have been identified, counsel has not yet decided which of these persons they may call as witnesses. (All facts, including but not limited to all facts related to damages).
- q. ***Evan Hendricks, 8321 Tomlinson Avenue, Bethesda, MD 20817*** (Expert Witness).
- r. ***Elizabeth De Armond, 565 West Adams Street, Chicago, Illinois 60661*** (Expert Witness).
- s. ***Any and all witnesses identified by the Defendant.***
- t. ***Any and all witnesses who have testified regarding similar claims in previous litigation.***

## **II. Description of documents in possession of the Plaintiff.**

- i. Virginia Criminal Record for Tyrone Bernett Henderson, Sr.;
- ii. Westmoreland, Pennsylvania Criminal History for Tyrone “D” Henderson;
- iii. November 9, 2011 letter to National Background Data by Corelogic from Tyrone Henderson requesting copy of entire file with attachments;
- iv. January 9, 2012 letter from Corelogic with attached background screening report for Tyrone Henderson dated November 16, 2011;
- v. November 17, 2011 fax from Anna Wynn with attached background screening report;
- vi. E-mail dated November 18, 2011 from Anna Wynn that consumer’s file had been amended;
- vii. Letter dated November 23, 2011 from National Background Data with consumer file disclosure for Tyrone Henderson printed November 23, 2011;
- viii. Documents produced by the Defendants;
- ix. Various documents available online regarding and/or created by Corelogic and/or National Background Data;
- x. *Sleuthing 101 – A Primer – Background Checks and the Law* by Barry Nadell.

## **III. Computation of Damages**

### **A. Individual Claims**

### **Itemization Of Damages**

The Plaintiffs seeks damages for the following categories of harm as "actual damage" in this matter. These actual damages are not liquidated and do not lend themselves to a statement of calculation but may be subject to an award of damages. *Williams v. Trader Pub. Co.*, 218 F.3d 481, 486-487 (5<sup>th</sup> Cir. 2000); *See Burrell v. Crown Central Petroleum, Inc.*, 177 F.R.D. 376, 386 (E.D.Tex.1997). Such damages will be determined by the jury in this matter.

### **Categories and types of Actual Damages**

- i. Emotional and mental anguish, frustration and annoyance from being been deterred from applying for employment.
- ii. Emotional and mental anguish, frustration, humiliation, embarrassment and annoyance from being denied employment.
- iii. Emotional and mental anguish, humiliation, anger and frustration, annoyance, and embarrassment as a result of the publication of false information by the Defendants.
- iv. General economic damages in the form of lost employment capacity.
- v. General damages in the form of damage to reputation
- vi. Economic damage also includes the considerable time, effort and expense Plaintiffs have been forced to expend attempting to force Defendants to comply with their statutory obligations including telephone calls, writing letters, sending faxes.
- vii. Embarrassment from having to explain circumstances to potential employers, including anxiety when considering seeking additional employment because the consumer believes, justifiably, that he or she will be forced to once again subject himself or herself to the humiliation of having to explain the false and defamatory information previously discovered.

### **Case Law Supporting Actual Damages**

Such damages will likely be in keeping with the following FCRA decisions and settlements:

*Adams v Phillips*, 2002 U.S. Dist. LEXIS 24888 (E.D. LA 2002) (\$225,000 actual damages and \$275,000 punitive damages based upon general and economic damage theories);

*Anderson v. Conwood Co.*, 34 F. Supp. 2d 650 (W.D. Tenn. 1999) (\$50,000 in actual damages awarded in absence of testimony other than worry, stress and anxiety);

*Ayers v. Experian*, Case Number 3:03cv1048 (E.D. VA 2004)(Judgment taken on offer of judgment \$95,000 for claimed damages of emotional distress under 15 U.S.C. 1681e(b), defended by Jones Day);

*Bell v. May Department Stores* (Missouri 2000, jury award \$50,000 actual damages);

*Boris v. Choicepoint Servs., Inc.*, WL 1255891 (W.D. Ky. Mar. 14, 2003) (\$197,000 emotional distress damages remitted to \$100,000 based upon inaccurate reporting by consumer reporting agency. \$250,000 punitive damage award sustained.);

*Brown v. Experian*, (D. Conn. April 16, 2004) (\$50,000 jury verdict for emotional distress damages in reinvestigation case under 15 U.S.C. §1681i defended by Jones Day);

*Bryant v. TRW Inc.*, 689 F.2d 72 (6th Cir. 1982) (\$8,000 for embarrassment and humiliation, attorney's fees \$13,705, tried and appealed by Sidney Frank, local counsel for Experian);

*Conseco Finance Servicing Corp. v. Carlson*, District Court, Creek County, Sapulpa Division, State of Oklahoma, No. CJ-00-227, Feb. 14, 2002 (jury award of \$1.35 million; \$450,000 in actual damages for emotional distress and \$900,000.00 in punitive damages);

*Cousin v. Trans Union*; 246 F. 3d 399 (5<sup>th</sup> Cir. 2001) (\$50,000 actual damages; 4.5 million punitive vacated by appellate court.)

*Guimond v. Trans Union*, 45 F.3d 1329 (9th Cir. 1995) (jury awarded \$275,000 for humiliation and mental distress damages available under FCRA following remand);

*Johnson v. MBNA* (D. Va. 2002) (jury award of \$90,300 for emotional distress and damage to reputation sustained against furnisher MBNA for negligent investigation of consumer's dispute in violation of FCRA section 1681s-2(b), appeal reported at 357 F.3d 426 (4th Cir.2004);

*Jorgenson v Experian* (D. Ore. No. 96-286-JE) (jury awarded \$600,000 actual damages in 1998);

*McGowan v. Warner*, Alabama (CV 9503310, 1999) (jury awarded 1.85 million to theft of identity victim.)

*Milgram v. Advanced Cellular Systems, Inc.*, 1990 WL 116322 (E.D. Pa. 1990) (jury award of \$20,000 for actual damages, \$20,224 in attorney's fees);

*Mills v. NationsBank* (Florida, 1999) (Jury award \$140,000 actual and \$300,000 punitive damages);

*Mullins v. Trans Union*, 2006 WL 1214024 (E.D.Va.) (jury verdict of \$20,000 actual damages and \$100,000 in punitive damages);

*Pinner v Schmidt*, 617 F. Supp. 342 (E.D. La. 1985), 805 F.2d 1258 (5th Cir. 1991) (\$100,000 actual and \$100,000 punitive remitted to \$25,000 actual);

*Soghomonian v. Trans Union*, (N.D Ca 2004)(\$330,000 actual damages and \$660,000 punitive damages);

*Stevenson v. TRW*, 987 F.2d 288 (5th Cir. 1993) (\$30,000 in mental anguish and embarrassment damages, plus \$20,700 in attorney's fees);

*Thomas v. Trans Union*, (D. Or. 2002). (In 2002, the jury awarded \$5 million punitive, \$300,000 actual damage for emotional distress. Judge remitted the punitive to \$1million);

*Thompson v. Equifax*, (Ala. 2002) (jury award \$80,000);

*Thompson v. San Antonio Retail Merchants Ass'n*, 682 F.2d 509 (5th Cir. 1982) (\$10,000 actual damages for humiliation and mental distress even when no out-of-pocket expenses);

*Trans Union Corp. v. Crisp*, 896 S.W. 2d 446 (Ark. App. 1995) (\$15,000 compensatory damages, \$25,000 punitive damages);

*Wenger v. Trans Union* (Cal. jury award of actual damages of \$200,000);

*Zamora v. Valley Fed. S&L Ass'n*, 811 F.2d 1368 (10th Cir. 1987)\$61,500 in actual damages for emotion distress sustained based on impermissible access of consumer report under false pretenses);

***Punitive Damages:***

The Plaintiff seeks punitive damages that are unliquidated in this matter based upon the factors set forth in *Mathias v. Accor Economy Lodging, Inc.*, 347 F.3d 672 (7<sup>th</sup> Cir. 2004).

***Case Law Supporting Punitive Damages:***

Such damages are expected to fall within the general range of those cases outlined below dealing with punitive damages in consumer employment cases.

*Bach v. First Union Nat. Bank*, 486 F.3d 150, 152 (6th Cir. 2007) \$2,628,600 in punitive damages remitted to \$400,000 in one-dispute case);

*Boris v. ChoicePoint Servs., Inc.*, 249 F.Supp.2d 851, (W.D. Ky. 2003)(\$250,000 in punitive damages award was appropriate under FCRA);

*Conseco Finance Servicing Corp. v. Carlson, District Court, Creek County, Sapulpa Division, State of Oklahoma*, No. CJ-00-227, Feb. 14, 2002 (jury award of \$ 900,000 in punitive damages upheld);

*Drew v. Equifax Info. Services, LLC*, C 07-00726 SI, 2010 WL 5022466 (N.D. Cal. Dec. 3, 2010) (No remittitur of \$700,000 punitive damage award);

*Mills v. NationsBank, N.A.* 3d Judicial District of Florida (Lake County 1999) (Jury award \$300,000 punitive damages for false credit reports)

*Soghomonian v. Trans Union*, No. 99CV5773, 2005 WL 1972594(E.D. Ca 2005)(\$660,000 punitive damages);

*Thomas v. Trans Union*, No. 3:00CV1150 (D. Or. Jan. 29, 2003) (\$5 million for punitive damages, remitted to \$1 million);

*Thorton v. Equifax Inc.*, 467 F. Supp. 1008 (E.D. Ark. 1979) (\$250,000 in punitive damages).

*Williams v. Equifax Information Solutions, LLC*: Circuit Ct. or 9th Judicial Circuit, Orange County, Florida – No. 48-2003-CA-9035-O; order dated Nov. 17, 2007; jury verdict, Nov. 30, 2007 (\$2.7 million in punitive damages).

### **B. Class Claims**

Pursuant to 15 U.S.C. §1681n, Plaintiff and each class member seek statutory damages from \$100.00 and \$1,000.00 per violation, punitive damages in an unliquidated amount; and for attorney's fees and costs.

Plaintiff further seeks these damages individually and on a class basis.

Plaintiff reserves the right to supplement these disclosures.

**TYRONE HENDERSON,**  
*For himself and on behalf of all*  
*similarly situated individuals,*

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>ST</sup> day of December, 2012, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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